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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,436	03/14/2001	Michael J. Rojas	13463	3775

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EXAMINER

WU, RUTAO

ART UNIT	PAPER NUMBER
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3639

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/808,436

Applicant(s)

ROJAS, MICHAEL J.

Examiner

Rutao Wu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>05/07/2001</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1-7 in the reply filed on 09/12/2005 are acknowledged.

Claim 8 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 09/12/2005.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The

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disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 6 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S.

Pat No. 6,338,046 to Saari et al.

Referring to claim 1:

A method for cost accounting of data usage over a network by network users, the network having a plurality of internal IP addresses and access to a plurality of external IP addresses over the Internet, the method comprising the steps of:

a) detecting data packets having a source and destination IP address moving over the network; (col 2: lines 5-7; col 4: lines 56-57)

b) classifying the detected data packets based on the source and destination address; (col 4: line 33-34)

c) assigning the classified data packets to a network user; (col 4: lines 10-14, 55-60)

d) costing the classified data packets based on a predetermined costing scheme;
and (col 4: lines 18-30; col 6: lines 59-62; col 7: lines 38-42)

e) accumulating and storing the costed data packets based on the assigned user.
(col 5: lines 42-45; col 7: lines 23-26)

Referring to claim 2:

The method of claim 1, wherein step b) of classifying the detected data packets includes in one of at least the following four categories:

Internal IP address to internal IP address;

Internal IP address to external IP address;

External IP address to internal IP address; and

External IP address to external IP address;

(col 4: lines 11-14)

Referring to claim 3:

The method of claim 1, wherein step c) of assigning the classified data packets to the network user includes identifying an IP address to a network user based on network log-on data. (col 4: lines 10-14, 55-60)

Referring to claim 4:

The method of claim 1, wherein the predetermined costing scheme of step d) includes a costing factor based on the amount of bandwidth utilization at the time the data packet is detected. (col 1: lines 42-45; col 4: lines 31-42)

Referring to claim 6:

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The method of claim 1, further including the step of transferring the accumulated and stored costed data packets to a host computer over the Internet. (col 2: lines 27-30; col 7: lines 22-26)

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saari et al in view of U.S. Pat No. 6418467 to Scheitzer et al.

Saari et al does not disclose a filtering process that excludes certain data from being included in the costing step.

Scheitzer et al discloses that the central event manager (CEM) perform data merges to remove redundant data and then store the data as a billing record, so the collected data would be more useful in billing accounting (col 10: lines 32-35).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Saari et al's invention to include a step to eliminate certain qualified data from being included in billing calculation. Saari et al provides specific motivation by indicating network operators can implement charging strategies for determining the cost of using network connections and other resources

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within their jurisdiction independent from the charging strategies employed by other network operators. (col 4: lines 20-24)

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saari et al.

Saari et al does not disclose a programmable device for cost accounting that is comprised of a network controller, a processor and a dynamic random access memory.

Saari et al discloses network nodes that facilitate the transfer of information from a source location to a destination location (col 2: lines 4-6; col 6: lines 18-20)

Saari et al discloses that the content of the billing cell comprises information describing the connection established between the source unit and the node and a processor uses the connection information to compute the cost for usage of the connection. (col 28: lines 25-29)

Saari et al discloses that a memory is provided at the node and the processor copies content of the billing cell received from the source unit into the memory. (col 28: lines 19-22)

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that a node in Saari et al's invention is structurally the same as the programmable device discloses in the application.

Conclusion

1. Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant.

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Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat No. 6,088,687 to Leleu.

U.S. Pat No. 5,852,812 to Reeder.

U.S. Pat No. 5,751,799 to Mori.

U.S. Pub No. 20010027449 to Wright.

U.S. Pub No. 20010016837 to Nuttall.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rutao Wu whose telephone number is (571)272-3136.

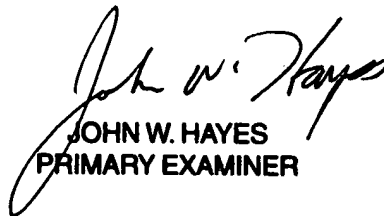
The examiner can normally be reached on Mon-Fri 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571)272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JOHN W. HAYES
PRIMARY EXAMINER